

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KYLE BUCKLES,

Petitioner,

v.

REED RICHARDSON,

Respondent.

ORDER

17-cv-411-jdp

Petitioner Kyle Buckles brought this petition for a writ of habeas corpus under 28 U.S.C. § 2254 to challenge a conviction for stealing a car. He raised three grounds in his petition: (1) his plea was not knowing and voluntary because the state could not legally fulfill the promises it made him; (2) his counsel was ineffective because he “negotiated an ambiguous plea agreement”; and (3) his counsel was ineffective because he did not object to the state’s “material and substantial breach of the plea agreement during sentencing.” Dkt. 1, at 7-8.

I issued an order to show cause and the state filed an answer, Dkt. 8, which triggered Buckles’s 30-day deadline to file his opening brief, Dkt. 2, at 4. Instead of his opening brief, Buckles filed a motion to stay the case while he raised new claims in state court. Dkt. 9. I denied that motion as untimely and also futile because the new claims were clearly meritless. I set a new deadline for Buckles to submit his opening brief. Dkt. 18.

Buckles’s deadline passed on May 7, 2018, but he failed to file either a brief or a request for an extension of time. I will give him one more chance to file his brief. If he fails to comply with the deadline this time, I will dismiss the petition with prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for his failure to prosecute the case. *Slack v. McDaniel*, 529

U.S. 473, 489 (2000) (stating in the federal habeas context that “[the petitioner’s] failure to comply with an order of the court is grounds for dismissal with prejudice”).

ORDER

IT IS ORDERED that petitioner Kyle Buckles may have until July 11, 2018, to file his brief in support of his petition for a writ of habeas corpus. If he fails to respond by that date, I will dismiss the case with prejudice for his failure to prosecute the case.

Entered June 22, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge